



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: June 21, 2016

Re: Recommended Findings of Violation and Potential Penalties against
Jacob C. Johnston, Candidate for State Representative

Duty to register as a candidate. Under 21-A M.R.S.A. § 1013-A(l)(A), candidates for state office are required to appoint a treasurer within 10 days of becoming a candidate and, within another 10 days, register as a candidate with the Commission. Registration is not difficult. A copy of the paper form is attached. Sections 2-A, 3, and 4 are optional, and Section 6 does not apply to most candidates. Candidates may complete an electronic form on the Commission's website.

Registrations received to date. Most candidates are aware of the registration requirement through prior campaign experience or because they have heard about it from other candidates or the political parties. To date, 329 House candidates and 87 Senate candidates have registered (in addition to 85 county candidates).

Unregistered Candidates. Candidates who are unenrolled in a political party were required to qualify for the ballot by June 1, 2016 by filing nominating petitions with the Secretary of State. Prior to and since the June 1 deadline, the Commission staff has diligently tried to get all 2016 candidates for legislative and county office to register by

sending them notices, packets of forms, educational materials, and sometimes by calling (when phone numbers are easily accessible).

As of today, one House candidate has not registered with the Commission:

Name	District/ County	Date on Ballot	1st Notice	2nd Notice	3rd Notice	Contact Notes
Jacob Johnston	HD 14	06/01/16	06/02/16	06/15/16	06/20/16	No phone #

The Commission staff sent at least three written notices to Mr. Johnston (attached).

Because he qualified for the ballot in June, his address is on the website of the Maine Secretary of State. We also attempted to find a telephone number for Mr. Johnston, but could not find a valid phone number for him.

Recommendation by Commission staff. The Commission staff recommends that you find that Mr. Johnston has violated 21-A M.R.S.A. § 1013-A(l)(A) by failing to timely register with the Commission and assess a \$10 penalty against him, pursuant to 21-A M.R.S.A. § 1020-A(1). This action is consistent with the Commission's finding against Mr. Frederick Chatfield at its May 25, 2016 meeting, who had failed to register as a candidate for House District 94.

Thank you for your consideration of this item.

D. The content of the communication is limited to:


- (1) The identification of each candidate, with which pictures may be used;
- (2) The offices sought;
- (3) The offices currently held by the candidates;
- (4) The party affiliation of the candidates and a brief statement, including campaign slogans, about the party's or the candidates' positions, philosophy, goals, accomplishments or biographies;
- (5) Encouragement to vote for the candidates identified;
- (6) Information about voting, such as voting hours and locations; and
- (7) Campaign or party logos.


If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

21-A § 1013. Treasurer; political committees (REPEALED)

21-A § 1013-A. Registration

1. Candidates, their treasurers and political committees. A candidate shall register the candidate's name and the name of a treasurer with the commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

 A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 4, paragraph A shall appoint a treasurer. The candidate may serve as treasurer, except that a participating candidate, as defined in section 1122, subsection 6, or a candidate certified in accordance with section 1125 may not serve as treasurer, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under chapter 14 until the candidate identifies another person to serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

-  (1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A candidate certified in accordance with section 1125 may not serve as deputy treasurer. When a treasurer dies or resigns, the deputy

of perjury, as provided in Title 17 A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.


C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

- A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;
- B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

21-A § 1020. Failure to file on time (REPEALED)

21-A § 1020-A. Failure to file on time



1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;



2016 CANDIDATE REGISTRATION

Notice: Changes to registration information must be filed within 10 days in writing or by e-mail to the Commission.

Is this an amendment? ☐ Yes ☐ No

1. CANDIDATE INFORMATION		
Are you running as a (check one): <input type="checkbox"/> Maine Clean Election Act candidate <input type="checkbox"/> traditionally financed candidate		
Title <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/> Mr. <input type="checkbox"/> Dr. <input type="checkbox"/> Honorable	Party affiliation	Office sought & District #
Name: First	MI or Middle Name	Last
County (for candidates for county office)		
Mailing address		Phone
City	Zip code	Alternate Phone
E-mail (required)		Fax

2. TREASURER INFORMATION		
Name: First	MI or Middle Name	Last
Phone		
Mailing address		Fax
City	Zip code	E-mail (required)

DESIGNATION OF TREASURER: A candidate for office must appoint a treasurer no later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations. No later than 10 days after appointing a treasurer, the candidate must register with the Commission the name and address of the candidate and treasurer. The treasurer is responsible for maintaining campaign records and for filing reports. A MCEA candidate may serve as treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A))

2A. DEPUTY TREASURER INFORMATION (optional)		
Name: First	MI or Middle Name	Last
Phone		
Mailing address		Fax
City	Zip code	E-mail (required)

DESIGNATION OF DEPUTY TREASURER (optional): The candidate may appoint a deputy treasurer and notify the Commission no later than 10 days after the appointment. The deputy, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A MCEA candidate may serve as deputy treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A)) (21-A MRSA § 1013-A (1)(A)(1))

3. AUTHORIZED AGENT INFORMATION (optional)		
Name	Phone	Email (required)
Name	Phone	Email (required)

DESIGNATION OF AUTHORIZED AGENT (optional): Please use this section to designate individuals, other than the treasurer and deputy treasurer, authorized to file reports on your behalf.

4. POLITICAL COMMITTEE INFORMATION (optional)		
Name		Phone
Address of campaign headquarters	City	Zip code

DESIGNATION OF POLITICAL COMMITTEE (optional): The candidate may form a political or campaign committee. Within 10 days of forming the committee and before accepting contributions, making expenditures or incurring obligations, the candidate must:

- appoint a treasurer (the candidate may have only one treasurer who is listed in Section 2) and
- register the committee and its officers, if any are appointed, with the Commission. (21-A MRSA § 1013-A (1) (B))

Committee Officers (use additional pages, if necessary):

Name	Title	Phone
Mailing address	City Zip code	E-mail

Name	Title	Phone
Mailing address	City Zip code	E-mail

5. CERTIFICATION
I, _____, certify that the information in this registration is true, accurate and complete. (Print Candidate's Full Name)
Signature of Candidate _____ Date _____

6. REPORTING EXEMPTION REQUEST
<p>Only county and municipal candidates and legislative candidates in an uncontested primary election may request an exemption.</p> <p>A candidate may request an exemption from the obligation to appoint a treasurer and file campaign finance reports if the candidate does not accept any cash or in-kind contributions or make any expenditures for his or her campaign. You cannot request a reporting exemption if you use your or your spouse's/domestic partner's personal funds to pay for your campaign expenses. To request an exemption, complete the statement below and sections 1 & 5, have the form notarized, and submit it to the Commission.</p> <p>STATEMENT OF ELIGIBILITY FOR A REPORTING EXEMPTION: I, the undersigned, swear or affirm that I will not accept contributions, make expenditures or incur obligations associated with my candidacy.</p> <p>Signature of candidate _____ Date _____</p> <p>Subscribed and sworn (affirmed) to before me this _____ day of _____, 20____.</p> <p>Signature of Notary/Attorney-at-law _____ My commission expires _____ (Seal is optional) (Date)</p> <p>REVOCATION NOTICE: The foregoing statement may be revoked. Prior to revocation, the candidate must appoint a treasurer. A revocation notice must be in the form of an amended registration which must be filed with the Commission no later than 10 days after the date the treasurer is appointed. The notice must be filed before contributions are accepted or expenditures made. A late revocation notice is subject to the same penalties applicable to late campaign finance reports.</p>



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To: Jacob Johnston

From: Emma Burke, Candidate Registrar

Date: June 2, 2016

Re: Registering with the Ethics Commission

You are listed as a candidate for the Legislature with the Secretary of State's office. The Maine Election Law requires that candidates also register with the Ethics Commission before raising or spending any money for their campaigns. We have enclosed a Getting Started Packet for you to use to register as a candidate with the Commission.

Please complete the necessary forms and return them to our office. You may also go to www.mainecampaignfinance.com and click the "Register" link to register online. Please be aware if you register online you are still required to print, sign and return the registration materials to the Ethics Commission.

If you do not plan on raising or spending any money, or if you intend on withdrawing from the race after the primary election, you still have to register with the Commission. Some candidates may request an exemption from filing campaign finance reports, if they do not plan to raise or spend any money. Please see Item 6 on the Candidate Registration form.

If you have any questions about these requirements, please call our office at 287-4179. Our website (www.maine.gov/ethics) also has campaign forms and guides and other information you may find useful.

Thank you.

Enclosures



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Second Notice

To: Jacob C. Johnston

From: Emma Burke, Candidate Registrar

Date: June 15, 2016

Re: Registering with the Ethics Commission

This letter is to follow up on correspondence sent to you in March as a candidate for the Maine Legislature. Maine Election Law requires that candidates

- register with the Ethics Commission, and
- file campaign finance reports with the Commission.

These requirements apply even if you intend to withdraw as a candidate after the primary election. Failure to register and to file campaign finance reports can result in financial penalties against you.

Please complete the Candidate Registration form and return it to our office. Or, go to www.maine.gov/ethics and click on the "Register" link to register online (provided that you print, sign and return the registration materials to the Ethics Commission by U.S. Mail).

If you do not plan to raise or spend any money, you may be eligible for an exemption from filing campaign finance reports. Please see Box 6 on the Candidate Registration form.

If you do not register as a candidate, you may be found in violation and assessed a financial penalty at the Commission's next meeting on June 29, 2016.

If you have any questions about these requirements, please call our office at 287-4179. Our website (www.maine.gov/ethics) also has campaign forms and guides and other information that you may find useful.

Thank you.



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June 20, 2016

Jacob C. Johnston
62 Pleasant Street
Saco, ME 04072

Notice of Penalty for Failing to Register

Dear Mr. Johnston:

This notice is to follow up on two letters sent to you previously, requesting that you register as a candidate with the Maine Ethics Commission. Because you have qualified for the general election ballot as a legislative candidate, this is a legal requirement. (21-A M.R.S.A. § 1013-A(1)(A))

Our last letter to you included a blank registration form and a return envelope. Please use that form to register as a candidate. Or, go to www.maine.gov/ethics and click the "Register" link to register online.

Your name has been placed on the agenda of the Commission's June 29, 2016 meeting for a finding of legal violation and possible the assessment of a \$10 penalty. The easiest way to avoid a penalty is to register promptly, but you are welcome to attend the meeting to argue against the finding of legal violation and possible penalty. The meeting will be held at 9:00 a.m. at the Commission's office, 45 Memorial Circle, in Augusta.

As a candidate on the general election ballot, you are also required to file campaign finance reports – even if you do not plan to raise or spend any money to promote your election. Certain candidates may request an exemption from filing campaign finance reports, if they do not plan to raise or spend any money. Please see item 6 on the Candidate Registration form.

If you have any questions, please call our office at 287-4179 and ask to speak to a Candidate Registrar. Thank you.

Sincerely,

Jonathan Wayne
Executive Director

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775